

MAY 22 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TAMARA MCWILLIAMS, on her behalf,
and on the behalf of other persons
similarly situated; et al.,

Plaintiffs - Appellants,

v.

PORTLAND PUBLIC SCHOOL
DISTRICT, NO. 1J; et al.,

Defendants - Appellees.

No. 03-35442

D.C. No. CV-02-01426-FR

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Oregon
Helen J. Frye, District Judge, Presiding

Argued May 6, 2004
Submission Deferred May 10, 2004
Submitted May 18, 2006
Portland, Oregon

Before: REINHARDT, SILVERMAN, and CLIFTON, Circuit Judges.

We deferred submission of this case pending resolution of three related
Oregon cases. In the first case, the Oregon Supreme Court reversed the Oregon

^{*} This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

Court of Appeals and held that Portland School District No. 1J was required to observe the merit system set out in the Custodians' Civil Service Law, O.R.S. §§ 242.310- 242.640, 242.990, when acquiring custodial services by contract. *Walter v. Scherzinger*, 121 P.3d 644, 654 (Or. 2005). On April 27, 2006, the Oregon Supreme Court denied reconsideration of *Walter* and vacated and remanded the decisions of the Oregon Court of Appeals in the two other related cases. *See Portland Pub. Sch. Dist. No. 1J v. Portland Custodian Civil Service Bd.*, 108 P.3d 63 (Or. Ct. App. 2005); *Scherzinger v. Portland Custodians Civil Service Bd.*, 103 P.3d 1122 (Or. Ct. App. 2004).

In light of the Oregon Supreme Court's decision in *Walter* and related proceedings, the judgment of the district court is reversed. This case is remanded for reconsideration consistent with these developments.

REVERSED AND REMANDED.